

ESTTA Tracking number: **ESTTA552167**

Filing date: **08/05/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211251
Party	Defendant Sabertooth Motorcycles, LLC
Correspondence Address	SABERTOOTH MOTORCYCLES, LLC 26 LYMAN RD CHESTNUT HILL, MA 02467-2810  ben.daniels@sabertoothmotorcycles.com
Submission	Answer
Filer's Name	Ben Daniels
Filer's e-mail	ben.daniels@sabertoothmotorcycles.com
Signature	/Ben Daniels/
Date	08/05/2013
Attachments	Answer to Marvel's Opposition to Sabertooth Trademark Application.pdf(92059 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	
Marvel Characters, Inc.	)	
	)	Opposition No. 91211251
Opposer,	)	
	)	Serial No. 85483515
V.	)	
	)	Mark: SABERTOOTH
	)	
Sabertooth Motorcycles LLC	)	Filing Date: November 30, 2011
	)	
Applicant.	)	
_____	)	

RESPONSE TO OPPOSITION

On June 24, 2013, Marvel Characters, Inc., hereinafter referred to as “Opposer”, filed a Notice of Opposition to Sabertooth Motorcycles, LLC’s, hereinafter referred to as “Applicant”, Trademark Application Serial No. 85483515 for the mark SABERTOOTH in Class 009. Opposer claims that it will be damaged if Applicant’s U.S. Application Serial No. 85483515 for the mark SABERTOOTH is allowed to register. Applicant vigorously disagrees with this contention and believes Opposer’s claims are without merit. Applicant further believes that Opposer’s Opposition is a textbook example of “Trademark Bullying,” where a large company attempts to enforce Trademark rights beyond a reasonable interpretation of the scope of the rights granted to the Trademark holder.

Applicant’s responses to the allegations contained in the Opposition are as follows:

**Opposer and its Business**

1. On information and belief, the Opposer is a wholly owned subsidiary of the

Walt Disney Company, beyond this Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

2. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

3. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

4. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Further, Applicant believes that how Opposer has used its other characters names and marks in general is irrelevant. The only relevant issue in this opposition is how Opposer has used its SABRETOOTH character.

5. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Further, Applicant believes that how Opposer has used its other characters names and marks with regard to merchandizing is irrelevant. The only relevant issue in this opposition is how Opposer has used its SABRETOOTH character in regard to merchandizing.

6. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation. Applicant notes that that to the best of its belief that at no time has Opposer ever attempted to obtain Trademark Registration for its SABRETOOTH mark for any use besides that which is contained in U.S. Registration No. 1836773 in class 16, which is for publications; namely, comic books and magazines and stories in illustrated form; trading cards.

7. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

8. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

9. Opposer's rights are limited to the goods and services contained within any

valid U.S. Trademark Registrations, beyond this Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.

**Applicant and its Application**

- 10. Admit.
- 11. Admit.
- 12. Admit.
- 13. Admit.
- 14. Admit.
- 15. Admit.
- 16. Admit.
- 17. Admit.
- 18. Admit.
- 19. Admit.
- 20. Admit.
- 21. Admit.
- 22. Admit.

**Count I: Likelihood of Confusion, 15 U.S.C. § 1052(d)**

- 23. Applicant repeats and reaffirms each and every answer set forth above.
- 24. Deny that Opposer has priority of the SABERTOOTH mark for any of the goods contained in Applicant's Application Serial No. 85483515. Opposer's rights to the SABRETOOTH mark are limited to the goods contained in its U.S. Registration No. 1836773.
- 25. Applicant is without sufficient information to form an opinion as to the truth or falsity of this allegation.
- 26. Deny.
- 27. Deny.

**Count II: Void ab Initio**

28. Applicant repeats and reaffirms each and every answer set forth above.
29. Deny. Applicant has used and continues to use the SABERTOOTH mark in commerce and in connection with the goods listed in its SABERTOOTH Application.
30. Deny. Applicant has used and continues to use the SABERTOOTH mark in commerce and in connection with the goods listed in its SABERTOOTH Application.
31. Deny. Applicant has used and continues to use the SABERTOOTH mark in commerce and in connection with the goods listed in its SABERTOOTH Application and the application should be allowed to register.

WHEREFORE, Applicant requests that Opposer's Opposition to Serial No. 85483515 be denied and that the Application proceed to Registration.

Respectfully Submitted  
Sabertooth Motorcycles, LLC

Date: July 28, 2013

By: /Ben Daniels/  
Ben Daniels  
President & CEO  
Sabertooth Motorcycles LLC  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 28 day of July, 2013, a true copy of the foregoing paper was served by first-class mail, postage prepaid, upon counsel for Opposer:

Linda K. McLeod  
Kelly IP, LLP  
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Washington, DC 20036

By: /Ben Daniels/  
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